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2 IN THE UNITED STATES DISTRICT COURT  
3 NORTHERN DISTRICT OF INDIANA  
4 HAMMOND DIVISION

5 UNITED STATES OF AMERICA,

6 vs.

2:10-CR-109

7 OSCAR GONZALEZ,

8 Defendant.

9 TRANSCRIPT OF CHANGE OF PLEA HEARING  
10 BEFORE THE HONORABLE RUDY LOZANO  
11 UNITED STATES DISTRICT JUDGE  
12 JUNE 26, 2012

13 FOR THE GOVERNMENT: David J. Nozick  
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24 Official Court Reporter  
25 United States District Court  
5400 Federal Plaza, Suite 4082  
Hammond, Indiana 46320  
219-852-3616

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computer-aided transcription.

1 THE COURT: Mr. Nozick, is Mr. Cooley going to be here  
2 today?

3 MR. NOZICK: Mr. Cooley just started driving back to  
4 O'Hare. He's got a plane to catch.

5 THE COURT: He's coming later?

6 MR. NOZICK: No. He just left town. You don't think I  
7 can handle it on my own?

8 THE COURT: Story of your life. He leaves you all the  
9 time.

10 MR. NOZICK: I know.

11 THE COURT: Is the plea being filed electronically  
12 today, too?

13 MR. NOZICK: Yes, Judge.

14 THE COURT: Mr. Parent, are you ready?

15 MR. PARENT: We are, Judge.

16 THE COURT: This is the case of the United States of  
17 America versus Oscar Gonzalez, also known as Puppet, Hammond  
18 Criminal No. 2:10-CR-109. The defendant is present in person  
19 and with his attorney, Mr. Bruce Parent. The government is  
20 represented by its Assistant United States Attorney, Mr. David  
21 Nozick.

22 Mr. Parent, is it true, as I have been advised, that your  
23 client, the defendant, wishes to enter a plea of guilty to  
24 Counts One and Two of the third superseding indictment in this  
25 case?

1 MR. PARENT: Yes, sir, Judge.

2 THE COURT: Mr. Parent, I received a document entitled  
3 plea agreement. I have been advised that a copy of this  
4 document will be filed electronically today with the Court.  
5 The plea agreement is seven pages in length, and the last page  
6 contains what purports to be the defendant's signature. I  
7 have inspected this document, and it was file marked on the  
8 26th day of June of the year 2012. The document that I  
9 received today has written signatures. The one that will be  
10 electronically filed has printed signatures. Is the plea of  
11 guilty by this defendant being made pursuant to the plea  
12 agreement contained in these two documents?

13 MR. PARENT: Yes, sir.

14 THE COURT: Taking the document that I received today,  
15 on the last page of this document appears the name of Oscar  
16 Gonzalez and above that a signature that appears to be that of  
17 an Oscar Gonzalez. Is that the defendant's signature?

18 MR. PARENT: Yes, Judge.

19 THE COURT: Was it executed in your presence?

20 MR. PARENT: Yes, sir.

21 THE COURT: And was it executed pursuant to approving  
22 this plea agreement?

23 MR. PARENT: Yes, sir, it was.

24 THE COURT: Right below that appears the name of Bruce  
25 D. Parent, attorney for the defendant, and above that a

1 signature that looks like a Bruce D., and then -- I don't know  
2 what it is. Do you own up to that as being your signature?

3 MR. PARENT: Yes. My mother is not proud of that  
4 signature, but it is mine, Judge.

5 THE COURT: Was that executed pursuant to approving the  
6 plea agreement?

7 MR. PARENT: Yes, sir.

8 THE COURT: Lower -- well, right below that appears the  
9 names of David Capp, United States Attorney, by David J.  
10 Nozick, Assistant United States Attorney, and above that a  
11 squiggly line. I assume that's your signature, Mr. Nozick?

12 MR. NOZICK: It is, Judge.

13 THE COURT: And did you execute that pursuant to  
14 approving the plea agreement?

15 MR. NOZICK: Yes, Your Honor.

16 THE COURT: And next to that appears the name of  
17 Lanny A. Brewer, Assistant Attorney General, by Joseph A.  
18 Cooley, trial attorney, United States Department of Justice,  
19 and above that a signature, or at least what appears to be a  
20 signature. I can make out a J, an A and a C. Is that  
21 Mr. Cooley's signature?

22 MR. NOZICK: It is.

23 THE COURT: And was that executed pursuant to approving  
24 the plea agreement?

25 MR. NOZICK: It was.

1 THE COURT: And is Mr. Cooley your co-counsel?

2 MR. NOZICK: He is.

3 THE COURT: Mr. Gonzalez, I want you to stand up, face  
4 this young lady, raise your right hand to be sworn.

5 (Defendant sworn.)

6 EXAMINATION

7 BY THE COURT:

8 Q. Please be seated, Mr. Gonzalez. There's going to be some  
9 rules that we're going to have to abide by, and if we can't  
10 abide by these rules, we'll stop the hearing and we'll go to  
11 trial.

12 Rule No. 1, I have to hear you. If I can't hear you, I  
13 have no idea what you want me to do. Do you understand?

14 A. Yes, Your Honor.

15 Q. Well, we're not doing very good. Take this other  
16 microphone over here, put it right in front of you. Speak up.

17 A. Yes, Your Honor.

18 Q. That's better.

19 Two, you have to hear me. If you can't hear me, tell me.  
20 I'll raise my voice. Do you understand?

21 A. Yes, Your Honor.

22 Q. You have to understand everything I'm asking you. If you  
23 don't understand everything I'm asking you, tell me. I'll  
24 rephrase the question. Do you understand?

25 A. Yes, Your Honor.

1 Q. I want you to answer all of my questions out loud,  
2 verbally. Don't nod your head. Don't say mm-hmm, uh-uh,  
3 don't grunt. I may not understand what you're saying. Do you  
4 understand?

5 A. Yes, Your Honor.

6 Q. If at any time for any reason you want to talk to your  
7 attorney, you know what that means (indicating)?

8 A. Yes, Your Honor.

9 Q. What does it mean?

10 A. Timeout.

11 Q. Just tell me timeout. I'll let you talk to your attorney  
12 about any subject at all. The only thing I'm going to  
13 recommend to you is that you whisper. Otherwise there's no  
14 need to take a timeout. Do you understand?

15 A. Yes, Your Honor.

16 Q. I will also tell you that that microphone that's in front  
17 of you, it's always hot. It's always amplifying. If you want  
18 to talk to your attorney, there's a button on the base. Push  
19 that button down and hold it down. It will stop amplifying.  
20 As soon as you let go, it will start amplifying again. Do you  
21 understand?

22 A. Yes, Your Honor.

23 Q. Are you ready to proceed?

24 A. Yes, Your Honor.

25 Q. Do you have any questions?

1 A. No, Your Honor.

2 Q. Okay. I don't want you to have to keep bending over.  
3 Why don't you bring the microphone closer to you. Otherwise  
4 you seem like you're constantly bending forward.

5 Mr. Gonzalez, do you understand that you are now under  
6 oath, and if you answer any of my questions falsely, your  
7 answers may later be used against you in another prosecution  
8 for perjury or for making a false statement?

9 A. Yes, Your Honor.

10 Q. Please state your full name.

11 A. Oscar Gonzalez.

12 Q. Mr. Gonzalez, where do you live?

13 A. 47 -- 4732 Henry Avenue.

14 Q. Okay. You're going to have to speak a little bit slower  
15 because she's writing down everything you're saying, and  
16 otherwise, she'll take off on me like a helicopter. Repeat  
17 that again.

18 A. 4732 Henry Avenue.

19 Q. What city?

20 A. Hammond, Indiana.

21 Q. Are you a citizen of the United States?

22 A. No, Your Honor.

23 Q. Where are you a citizen from?

24 A. Mexico.

25 Q. Has your attorney, Mr. Parent, explained to you that your

1 guilty plea and resulting criminal conviction may have an  
2 adverse consequence as to your immigration status with the  
3 Homeland Security Administration under the immigration laws of  
4 the United States?

5 A. Yes, Your Honor.

6 Q. Do you fully understand that -- then that your plea of  
7 guilty and your resulting conviction may carry the risk of  
8 deportation, consequences by the Homeland Security  
9 Administration?

10 A. Yes, Your Honor.

11 Q. With this understanding, are you still willing to plead  
12 guilty to Counts One and Two of the third superseding  
13 indictment?

14 A. Yes, Your Honor.

15 Q. And are you doing this knowingly and voluntarily?

16 A. Yes, Your Honor.

17 Q. How old are you?

18 A. 22, Your Honor.

19 Q. What is the date of your birth?

20 A. 2/21/90, Your Honor.

21 Q. Slow down, Mr. Gonzalez. Go ahead again.

22 A. February 21, 1990, Your Honor.

23 Q. What is your Social Security number?

24 A. I don't have one, Your Honor.

25 Q. Mr. Gonzalez, are you -- what is the extent of your



1 education?

2 A. I didn't graduate high school, but I made it to 11th  
3 grade.

4 Q. I'm sorry. You went to the 11th grade?

5 A. Yes, Your Honor.

6 Q. Are you able to read and understand the English language?

7 A. Yes, Your Honor.

8 Q. Have you been able to read and understand the documents  
9 that were filed in this case?

10 A. Yes, Your Honor.

11 Q. Have you been able to confer with your attorney and  
12 assist your attorney in the defense of your case?

13 A. Yes, Your Honor.

14 THE COURT: Mr. Parent, do you know of any reason why  
15 you cannot proceed today?

16 MR. PARENT: No, Judge. I find him very intelligent  
17 and able to understand me.

18 THE COURT: And Mr. Nozick?

19 MR. NOZICK: No reason not to proceed.

20 BY THE COURT:

21 Q. Mr. Gonzalez, have you ever been treated for any mental  
22 illness or addiction to narcotic drugs of any kind?

23 A. No, Your Honor.

24 Q. Are you presently under the influence of any drug or  
25 medication or alcoholic beverage of any kind?

1 A. No, Your Honor.

2 Q. Mr. Gonzalez, have you received a copy of the third  
3 superseding indictment pending against you, that is the  
4 written charges made against you in this case, and have you  
5 fully discussed those charges and the case in general with  
6 your attorney?

7 A. Yes, Your Honor.

8 Q. Are you fully satisfied with the counsel, representation  
9 and advice given to you in this case by Mr. Parent as your  
10 attorney?

11 A. Yes, Your Honor.

12 Q. Mr. Gonzalez, I want you to turn to the document entitled  
13 plea agreement. I want you to go to page 3 of that document.  
14 What I want you to do for me right now is I want you to read  
15 quietly, to yourself, paragraph 7 and all of the  
16 subparagraphs, paragraph 8, paragraph 9, paragraph 10,  
17 paragraph 11, paragraph 12, paragraph 13 and paragraph 14. I  
18 know you've done this before, but I want you to do it again.  
19 If you have any questions while you're reading it, you may  
20 talk to your attorney. Please let me know when you're done.

21 A. Yes, Your Honor.

22 (Defendant complies.)

23 MR. PARENT: We've read it, Judge.

24 BY THE COURT:

25 Q. Have you read those paragraphs, Mr. Gonzalez?

1 A. Yes, Your Honor.

2 Q. Did you have occasion to read it and discuss it earlier  
3 with your attorney?

4 A. Yes, Your Honor.

5 Q. Do you fully understand all of it?

6 A. Yes, Your Honor.

7 Q. Are you in agreement with all of it?

8 A. Yes, Your Honor.

9 Q. And are you asking me to approve all of it as part of  
10 your plea agreement?

11 A. Yes, Your Honor.

12 Q. I want to talk with you about the terms of your plea  
13 agreement. Let's start on page 3 with paragraph 7(a). There  
14 you indicate that you want to plead guilty to Count One of the  
15 third superseding indictment; is that correct?

16 A. Yes, Your Honor.

17 Q. You understand that that charges you with conspiracy to  
18 participate in racketeering activity; is that correct?

19 A. Yes, Your Honor.

20 Q. That's in violation of a federal statute; namely  
21 Title 18, United States Code, Section 1962(d); is that  
22 correct?

23 A. Yes, Your Honor.

24 Q. Why do you want to plead guilty to Count One of the third  
25 superseding indictment at this time?

1 A. Because I am, in fact, guilty of Count One, Your Honor.

2 Q. And are you asking me to approve it as part of your plea  
3 agreement?

4 A. Yes, Your Honor.

5 Q. Subparagraph (b), Mr. Gonzalez, deals with what penalties  
6 you're facing for Count One. I don't know what sentence, if  
7 any, you're going to get in this case if you're found guilty.  
8 Right now what I am going to do is I am going to tell you  
9 based upon the statute that you're pleading guilty to and  
10 based upon the count of the third superseding indictment that  
11 you're pleading guilty to what's the most that you could get,  
12 what's the least that you could get and obviously your  
13 sentence could be somewhere in between. Do you understand?

14 A. Yes, Your Honor.

15 Q. I'm going to use some terms. Let's cover those at this  
16 time. And I'm also going to talk about the term that may come  
17 up in the third superseding -- I'm sorry -- in Count Two of  
18 the third superseding indictment.

19 One of the terms you're going to hear is a term called a  
20 special assessment. All that is is a fancy word for another  
21 kind of a fine. For each count that you're found guilty of,  
22 in addition to any other penalties that I may charge you with,  
23 you're going to have to pay a \$100 special assessment made  
24 payable to the United States of America. That's due and  
25 payable either at the time of sentencing or before it. Do you

1 understand?

2 A. Yes, Your Honor.

3 Q. Another term you're going to hear is called a special  
4 assessment-- I'm sorry -- is called supervised release. Have  
5 you ever heard of that before?

6 A. No, Your Honor.

7 Q. Supervised release, Mr. Gonzalez, is in addition to any  
8 term of imprisonment that I may give you. If I give you a  
9 term of supervised release, during that period of time, you  
10 must live your life under certain conditions set out by the  
11 Court. If you violate those conditions, the Court can revoke  
12 or take back the supervised release and then send you back to  
13 jail in addition to the time you already served for the  
14 remaining term of supervised release. Do you understand that?

15 A. Yes, Your Honor.

16 Q. So do you understand that if you get a term of supervised  
17 release the importance of following all of the conditions set  
18 out by the Court?

19 A. Yes, Your Honor.

20 Q. And, of course, you understand what can happen if you  
21 don't?

22 A. Yes, Your Honor.

23 Q. Another term you're going to hear is a term called  
24 probation. Have you ever heard of that before?

25 A. Yes, Your Honor.

1 Q. Probation is very similar to supervised release in that  
2 if you get a term of probation, during that period of time,  
3 you must live your life under certain conditions set out by  
4 the Court. You violate those conditions, the Court can revoke  
5 or take back the probation and then send you to jail up to the  
6 terms of the statute. In the case of Count One, it would be  
7 up to life imprisonment. Do you understand that?

8 A. Yes, Your Honor.

9 Q. So do you understand that if you get a term of probation  
10 the importance of following all of the conditions set out by  
11 the Court?

12 A. Yes, Your Honor.

13 Q. And, of course, you understand what can happen if you  
14 don't?

15 A. Yes, Your Honor.

16 Q. Another term you may hear is a term called restitution.  
17 You understand what that is?

18 A. Yes, Your Honor.

19 Q. That's paying back any losses that may have occurred.  
20 And in this case, there may be restitution that's going to be  
21 charged against you. And do you understand that the Court can  
22 order full restitution, partial restitution or no restitution?  
23 Do you understand that?

24 A. Yes, Your Honor.

25 Q. Are you in agreement with that?

1 A. Yes, Your Honor.

2 Q. For Count One of the third superseding indictment, based  
3 upon the count that you're pleading guilty to and based upon  
4 the statute that you're pleading guilty to, the most that you  
5 could get would be life imprisonment, a fine of up to \$250,000  
6 or a combination of both of those, up to five years of  
7 supervised release, full restitution and a \$100 special  
8 assessment. Do you understand that?

9 A. Yes, Your Honor.

10 Q. The least that you could get would be probation, no fine,  
11 no supervised release, but you still would have a \$100 special  
12 assessment. Do you understand that?

13 A. Yes, Your Honor.

14 Q. And, of course, your sentence could be somewhere between  
15 the minimum and the maximum as I have just described.

16 A. Yes, Your Honor.

17 Q. Are you in agreement with that?

18 A. Yes, Your Honor.

19 Q. Let's go on to subparagraph (c). There you indicate that  
20 you want to plead guilty to Count Two of the third superseding  
21 indictment; is that correct?

22 A. Yes, Your Honor.

23 Q. You understand that that charges you with conspiracy to  
24 possess with the intent to distribute and distribute 5  
25 kilograms or more of cocaine and 1,000 kilograms or more of

1 marijuana; is that correct?

2 A. Yes, Your Honor.

3 Q. That's in violation of a federal statute; namely  
4 Title 21, United States Code, Section 846; is that correct?

5 A. Yes, Your Honor.

6 Q. Why do you want to plead guilty to Count Two of the third  
7 superseding indictment at this time?

8 A. Because I am, in fact, guilty of Count Two, Your Honor.

9 Q. And are you asking me to approve it as part of your plea  
10 agreement?

11 A. Yes, Your Honor.

12 Q. Paragraph (d) deals with what penalties you're facing if  
13 you're found guilty of Count Two of the third superseding  
14 indictment. And if you are found guilty of Count Two of the  
15 third superseding indictment, based upon that count and based  
16 upon the statute you're pleading guilty to, the most that you  
17 could get would be life imprisonment, a fine of up to  
18 \$10 million or a combination of both of those, up to life  
19 supervised release and a \$100 special assessment. Do you  
20 understand that?

21 A. Yes, Your Honor.

22 Q. Now, here you're going to hear another term that I didn't  
23 describe to you earlier. That's called a mandatory minimum.  
24 That means, under most circumstances, you must serve at least  
25 that amount of time. And for Count Two, you have to serve a



1 minimum of ten years imprisonment, no fine, five years of  
2 supervised release and a \$100 special assessment. Do you  
3 understand that?

4 A. Yes, Your Honor.

5 Q. Of course your sentence could be somewhere between the  
6 minimum -- strike that -- between, I'm sorry, the minimum and  
7 the maximum as I have just described?

8 A. Yes, Your Honor.

9 Q. Okay. Now, when I talk to you about mandatory minimum,  
10 let me also explain there is an exception to that, and I will  
11 cover that a little bit later. Okay?

12 A. Yes, Your Honor.

13 Q. But under most circumstances, you must serve that  
14 mandatory minimum. Do you understand that?

15 A. Yes, Your Honor.

16 Q. Let's go on to subparagraph 8. There, Mr. Gonzalez, you  
17 and the government have entered into some agreements to make  
18 some recommendations to the Court that are not binding upon  
19 the Court. Mr. Gonzalez, that sounds like a lot of mumbo  
20 jumbo. What do you mean you're going to make some  
21 recommendations to the Court that are not binding upon the  
22 Court?

23 A. It means I was not promised anything, Your Honor.

24 Q. I'm sorry?

25 A. It means I was not promised anything, Your Honor.

1 Q. No. It doesn't mean you're not going to promise  
2 anything.

3 A. No. It means I wasn't promised anything.

4 Q. Okay. Well, let me put it simply. You can recommend it.  
5 Your attorney can recommend it. Mr. Nozick can recommend it.  
6 I don't have to follow it. I can say, thank you very much; I  
7 am not going to follow your recommendation. And if I don't  
8 follow your recommendation, not only will I not follow it, I  
9 will not reject this plea agreement, nor will I allow you to  
10 withdraw your plea of guilty. Do you understand that?

11 A. Yes, Your Honor.

12 Q. Bottom line, I'm not bound by these recommendations. Do  
13 you understand that?

14 A. I understand, Your Honor.

15 Q. And I will have the final say. Do you understand that?

16 A. Yes, Your Honor.

17 Q. Are you in agreement with that?

18 A. Yes, Your Honor.

19 Q. Before we talk about these nonbinding recommendations,  
20 Mr. Gonzalez, let me explain to you that in this case your  
21 sentence in part is going to be decided by the United States  
22 Sentencing Guidelines promulgated by the United States  
23 Sentencing Commission. Do you understand?

24 A. Yes, Your Honor.

25 Q. The reason for that is very simple. These guidelines

1 became effective on November 1, 1987. The crime to which  
2 you're pleading guilty to occurred after that. Do you  
3 understand that?

4 A. Yes, Your Honor.

5 Q. Now, I said your sentence in part was going to be decided  
6 by the guidelines. Let me explain that further.

7 Mr. Gonzalez, I don't have to follow the guidelines. I have  
8 to apply them to your case. If, after applying them to your  
9 case, a guideline range is decided in your case, if I find  
10 that guideline range to be fair and reasonable, you'll  
11 probably be sentenced within that guideline range. If I do  
12 not find it to be fair and reasonable, I can go higher than  
13 that guideline range or I can go lower than that guideline  
14 range. I have that authority. Do you understand that?

15 A. Yes, Your Honor.

16 Q. I should say, actually, I have that discretion. So  
17 although I have to apply the guidelines to your case, I don't  
18 have to follow them. They are only advisory. Do you  
19 understand that?

20 A. I fully understand, Your Honor.

21 Q. Have you and your attorney talked about the guidelines  
22 and how they operate?

23 A. Yes, Your Honor.

24 Q. You understand that under the guidelines before the Court  
25 can decide a sentence for an individual, it has to take

1 numerous factors into consideration. With regards to each of  
2 these factors, the Court will allow input from you, from your  
3 attorney, from the government, but the final decision as to  
4 each and every factor will be the Court's and only the  
5 Court's. Once all of these factors are taken into  
6 consideration, a guideline range will be decided in your case.  
7 If I find that guideline range to be fair and reasonable,  
8 you'll probably be sentenced within that guideline range. If  
9 I do not find it to be fair and reasonable, I can go higher or  
10 I can go lower than that guideline range. Do you understand  
11 that?

12 A. Yes, Your Honor.

13 Q. Some of the factors that I have to consider in your case  
14 include, but are not limited to, one, whether or not you have  
15 a prior criminal record, and if so, for what. Do you  
16 understand that?

17 A. Yes, Your Honor.

18 Q. If drugs are involved, what kind of drugs are involved  
19 and what quantity of drugs are involved. Now, you notice I  
20 said drugs being involved. I didn't say that you possessed or  
21 that you distributed, because you may have responsibility for  
22 drugs that other individuals possessed or other people  
23 distributed. Do you understand that?

24 A. Yes, Your Honor.

25 Q. What part did you take in the crime? Were you a leader?

1       Were you a middle man? Were you a follower? Do you  
2       understand that?

3       A.     Yes, Your Honor.

4       Q.     If anybody was killed, how many people were killed. Do  
5       you understand that?

6       A.     Yes, Your Honor.

7       Q.     Was more than minimal planning involved may be a factor.  
8       Do you understand that?

9       A.     Yes, Your Honor.

10      Q.     And another factor and a very, very important factor is  
11      whether or not you have accepted responsibility for the  
12      commission of the crime to which you're pleading guilty.  
13      That's an important factor because depending upon the  
14      circumstances, you can either get a minus two or a minus three  
15      points. The lower the number of points, the smaller the  
16      guideline range. That's in your favor. Do you understand  
17      that?

18      A.     Yes, Your Honor.

19      Q.     You may ask me, how do I show acceptance of  
20      responsibility? It's very simple. One, by continuing to  
21      admit all of your involvement in the crime, including relevant  
22      conduct. Do you understand that?

23      A.     Yes, Your Honor.

24      Q.     You and your attorney talk about relevant conduct?

25      A.     Yes, Your Honor.

1 Q. Any questions about that?

2 A. No, Your Honor.

3 Q. Two, by not giving different stories about what occurred;  
4 three, by not being involved in any further crimes; and, four,  
5 by not attempting to withdraw your plea of guilty. Do you  
6 understand that?

7 A. Yes, Your Honor.

8 Q. Mr. Gonzalez, I could be here for days and months talking  
9 to you about all the different factors. These are only some  
10 of them. Any questions about the guidelines or how they  
11 operate?

12 A. No, Your Honor.

13 Q. Let's go back to these nonbinding recommendations. First  
14 nonbinding recommendation that's going to be made in this  
15 case, you and the government are going to recommend to the  
16 Court that you get the maximum deduction of points for  
17 acceptance of responsibility. Do you understand that?

18 A. Yes, Your Honor.

19 Q. And the government is going to make this recommendation  
20 with you as long as you continue to demonstrate acceptance of  
21 responsibility. You start giving different stories about what  
22 occurred, you start lying, you start attempting to withdraw  
23 your plea of guilty or you start being involved in other  
24 crimes, they don't have to make the recommendation. Do you  
25 understand that?

1 A. Yes, Your Honor.

2 Q. And if they don't make the recommendation, not only will  
3 they not make the recommendation, you will not be allowed to  
4 withdraw your plea of guilty or your plea agreement. Do you  
5 understand that?

6 A. Yes, Your Honor.

7 Q. Even if, even if you, your attorney and the government  
8 all recommend that you get acceptance of responsibility, who  
9 makes the final decision?

10 A. You, Your Honor.

11 Q. That's right. And I may agree with you and I may not. I  
12 will have the final say. Do you understand that?

13 A. Yes, Your Honor.

14 Q. Are you in agreement with that?

15 A. Yes, Your Honor.

16 Q. Second nonbinding recommendation is going to be made by  
17 the government, and they're going to recommend that I give you  
18 a sentence under the minimum of the applicable guidelines as  
19 decided for your case. Do you understand that?

20 A. Yes, Your Honor.

21 Q. Mr. Gonzalez, that does not mean the minimum under the  
22 guidelines. The minimum under the guidelines is probation.  
23 What we're talking about here is that after I consider all  
24 those different factors and a guideline range is decided in  
25 your case, it's the minimum under the guideline range. That

1 may be probation, but that may be higher. Do you understand  
2 that?

3 A. Yes, Your Honor.

4 Q. Who makes the final decision as to what your sentence is  
5 going to be?

6 A. You, Your Honor.

7 Q. And you understand that I may agree with the government.  
8 I may not. Do you understand that?

9 A. I understand, Your Honor.

10 Q. Under this paragraph, your attorney can argue, if he  
11 wants, that your sentence should be below the guidelines. Do  
12 you understand that?

13 A. Yes, Your Honor.

14 Q. And the other thing I have to tell you, Mr. Gonzalez, is  
15 that in the event that the guidelines are below the mandatory  
16 minimum under Count Two, the mandatory minimum would trump the  
17 guidelines. Do you understand that?

18 A. Yes, Your Honor.

19 Q. Do you understand that what that means?

20 A. Yes, Your Honor.

21 Q. Okay. Any questions about that?

22 A. No, Your Honor.

23 Q. Are you in agreement with that?

24 A. Yes, Your Honor.

25 Q. Let's take a look at the third nonbinding recommendation.



1 There you're agreeing that under 2D1.1(c) of the guidelines,  
2 you're responsible for 150 kilograms or more of a mixture and  
3 substance containing a detectible amount of cocaine and 1,000  
4 kilograms or more of a mixture and substance containing a  
5 detectible amount of marijuana. Do you understand that?

6 A. Yes, Your Honor.

7 Q. Now, by admitting this, the likelihood is that I will  
8 find you're responsible for at least that amount. Do you  
9 understand that?

10 A. Yes, Your Honor.

11 Q. And that may impact on what sentence, if any, you're  
12 going to get. Do you understand that?

13 A. Yes, Your Honor.

14 Q. Who makes the final decision as to what amount and what  
15 kind of drugs you have responsibility for?

16 A. You, Your Honor.

17 Q. And you understand that I may agree or I may disagree  
18 with all of you?

19 A. Yes, Your Honor.

20 Q. Okay.

21 A. I understand.

22 Q. Let's go on to subparagraph (d). There you're agreeing  
23 under the guidelines, Sections 2E1.1 and 2D1.1(b)(1) that the  
24 government -- that you and the government agree that you  
25 possessed a firearm in connection with any offense of

1 conviction. Do you understand that?

2 A. Yes, Your Honor.

3 Q. That may be important in deciding what sentence, if any,  
4 I'm going to give you. Do you understand that?

5 A. Yes, Your Honor.

6 Q. And you're agreeing to that. Do you understand that?

7 A. I understand, Your Honor.

8 Q. Who will make the final decision on that?

9 A. You, Your Honor.

10 Q. And you understand that I may agree or may not agree with  
11 all of you?

12 A. I understand, Your Honor.

13 Q. But it's going to be very difficult to say you didn't  
14 have a gun because here you're already admitting it. Do you  
15 understand that?

16 A. Yes, Your Honor.

17 Q. Okay. Let's go on to subparagraph (e). There you're  
18 saying under the Guideline Sections 2E1.1, 2D1.1(d)(1) and  
19 2A1.1(a) that with respect to this case that you're  
20 responsible for the first degree murder of a victim; is that  
21 correct?

22 A. Yes, Your Honor.

23 Q. And you understand that that too will have an impact on  
24 what sentence, if any, you're going to get?

25 A. Yes, Your Honor.

1 Q. Are you in agreement with that?

2 A. Yes, Your Honor.

3 Q. Who makes the final decision on this?

4 A. You, Your Honor.

5 Q. Okay. Let's go on to subparagraph 9. Subparagraph 9,  
6 Mr. Gonzalez, deals with appeals. You understand in all  
7 criminal cases a defendant has a right to appeal his  
8 conviction and/or sentence in a case?

9 A. Yes, Your Honor.

10 Q. In this case you have acknowledged that I have the  
11 jurisdiction to sentence you up to the maximum provided for by  
12 the statute. Remember you and I talked about that before when  
13 I told you that you were facing, for Count One, life  
14 imprisonment, up to \$250,000 or a combination of both of  
15 those, up to five years of supervised release, full  
16 restitution and a \$100 special assessment?

17 A. Yes, Your Honor.

18 Q. And for Count Two, you were facing up to life  
19 imprisonment, a fine of up to \$10,000,000 or a combination of  
20 both of those, up to life supervised release and a \$100  
21 special assessment?

22 A. Yes, Your Honor.

23 Q. And on both Counts One and Two you also were facing full  
24 restitution. You understand that?

25 A. Yes, Your Honor.

1 Q. What you're basically doing in this paragraph,  
2 Mr. Gonzalez, is you're giving up all of your rights to an  
3 appeal, either the manner in which you were found guilty or  
4 what sentence, if any, you're going to get. Do you understand  
5 that?

6 A. Yes, Your Honor.

7 Q. That includes incompetence of counsel except as it  
8 relates to this waiver and/or its negotiation. Do you  
9 understand that?

10 A. Yes.

11 Q. Do you understand the government is not giving up their  
12 rights to appeal in any way?

13 A. Yes, Your Honor.

14 Q. And you understand that once you do this you can't change  
15 your mind?

16 A. I understand, Your Honor.

17 Q. And do you understand that if you don't like the sentence  
18 that I give you or you don't like the ruling, you're not going  
19 to be able to tell Mr. Parent, I want to appeal, because you  
20 will have given up that right. Do you understand that?

21 A. I understand, Your Honor.

22 Q. Are you sure this is what you want to do?

23 A. Yes, Your Honor.

24 Q. Did you talk to your attorney before making the decision?

25 A. Yes, Your Honor.

1 Q. Did he answer all of your questions?

2 A. Yes, Your Honor.

3 Q. Do you have any questions of the Court?

4 A. No, Your Honor.

5 Q. Are you doing this knowingly and voluntarily?

6 A. Yes, Your Honor.

7 Q. Anybody force you to do it?

8 A. No, Your Honor.

9 Q. And are you asking me to approve it as part of your plea  
10 agreement?

11 A. Yes, Your Honor.

12 Q. Let's go on to subparagraph 10. There you're giving up  
13 your right to receive any further records, reports or  
14 documents regarding the investigation and/or prosecution of  
15 your case. Do you understand that?

16 A. Yes, Your Honor.

17 Q. That includes any information that you could have gotten  
18 under the Freedom of Information Act and Privacy Act of 1974.  
19 Do you understand that?

20 A. Yes, Your Honor.

21 Q. You and your attorney go over that statute?

22 A. Yes, Your Honor.

23 Q. Understand that the government is not giving up their  
24 right to receive any further records, reports or documents?

25 A. I understand, Your Honor.

1 Q. Down the road, if you're going to want Mr. Parent to get  
2 you a copy of a lab report or a copy of a statement or a copy  
3 of a video, you're not going to be able to do that.

4 A. I understand, Your Honor.

5 Q. Are you sure this is what you want to do?

6 A. Yes, Your Honor.

7 Q. Are you doing it knowingly and voluntarily?

8 A. Yes, Your Honor.

9 Q. Anybody force you to do it?

10 A. No, Your Honor.

11 Q. Did you talk to your attorney before making this  
12 decision?

13 A. Yes, Your Honor.

14 Q. Did he answer all of your questions?

15 A. Yes, Your Honor.

16 Q. Do you have any questions of the Court?

17 A. No, Your Honor.

18 Q. And are you asking me to approve it as part of your plea  
19 agreement?

20 A. Yes, Your Honor.

21 Q. Let's go on to subparagraph 11. There, Mr. Gonzalez, you  
22 say you want to cooperate with the United States Attorney or  
23 his designated representatives. What does that mean to you,  
24 you're going to cooperate?

25 A. That I will cooperate with the government.

1 Q. How?

2 A. By assisting them.

3 Q. By what?

4 A. Assisting them, Your Honor. Assisting them.

5 Q. Mr. Nozick is very sloppy, doesn't clean up his office.  
6 Are you going to help him mop the floor?

7 A. No, Your Honor.

8 Q. That's right. You don't do that. That's not your job.  
9 You going to help him straighten up his files and his records?

10 A. No, Your Honor.

11 Q. That's right. Mr. Gonzalez, when you agree to  
12 cooperate -- listen very carefully -- you agree to truthfully,  
13 completely and candidly tell them any and all information that  
14 you may have about any, any violation of law. Do you  
15 understand that?

16 A. I understand, Your Honor.

17 Q. That might be federal law, state law, local law, any law.  
18 Do you understand that?

19 A. I fully understand, Your Honor.

20 Q. It might be laws of this country or laws of Mexico or  
21 some other country. Do you understand that?

22 A. Yes, Your Honor.

23 Q. And when you do this, you can't lie to the government.  
24 You can't give them different stories about what occurred.  
25 You can't get convenient amnesia. You can't jive them. Do

1       you understand that?

2       A.     Yes, Your Honor.

3       Q.     You can't conveniently leave out certain facts. Do you  
4       understand that?

5       A.     Yes, Your Honor.

6       Q.     And if you agree to cooperate, you also agree to  
7       truthfully, completely and candidly testify at future grand  
8       juries and at future criminal trials if requested to do so.  
9       Do you understand that?

10      A.     I agree, Your Honor.

11      Q.     Are you sure this is what you want to do, Mr. Gonzalez?

12      A.     Yes, Your Honor.

13      Q.     It could be embarrassing. Do you understand that?

14      A.     I understand, Your Honor.

15      Q.     It might even require you to testify about other things  
16      you have done, that your loved ones have done, that your  
17      enemies have done, that your friends have done, that people  
18      that you know have done, people that you don't know personally  
19      but you know who they are have done. It's any and all  
20      information. Do you understand that.

21      A.     I fully understand, Your Honor.

22      Q.     And, Mr. Gonzalez, do you understand that could be  
23      dangerous even?

24      A.     I understand, Your Honor.

25      Q.     Did you talk to your attorney before making this



1 decision?

2 A. Yes, Your Honor.

3 Q. He answer all of your questions?

4 A. Yes, Your Honor.

5 Q. Do you have any questions of the Court?

6 A. No, Your Honor.

7 Q. Are you asking me to approve it as part of your plea  
8 agreement?

9 A. Yes, Your Honor.

10 Q. Do you understand that the government may tell me all  
11 about your cooperation; how good it was, how bad it was,  
12 whether you lied, whether you give them different stories, how  
13 it helped the government. Do you understand that?

14 A. I understand, Your Honor.

15 Q. That might impact what sentence, if any, I'm going to  
16 give you. Do you understand that?

17 A. I fully understand, Your Honor.

18 Q. Are you in agreement with that?

19 A. Yes, Your Honor.

20 Q. Let's go on to subparagraph 12. That dovetails,  
21 Mr. Gonzalez, a little bit with paragraph 11, because under  
22 12, that tells you about a motion that the government may,  
23 that's a big word, may, file in your case. The government has  
24 the right to file a motion under two sections: One, 5K1.1 of  
25 the sentencing guidelines, and two, under Title 18, United

1 States Code, Section 3553(e). And both of these sections deal  
2 with the government suggesting to the Court that I depart from  
3 the guidelines. And under Title 18, United States Code,  
4 Section 3553(e), not only that I depart from the guidelines,  
5 but that I depart and go below the mandatory minimum required  
6 by the statute. Do you understand that?

7 A. I fully understand, Your Honor.

8 Q. Now, the only person that can file this motion is the  
9 government. Your attorney can stand here until he's red in  
10 the face or blue in the face. It wouldn't do him any good  
11 under those two sections. Do you understand that?

12 A. I understand, Your Honor.

13 Q. Okay. Government in this case is not promising you that  
14 they're going to file these motions. What they're saying is  
15 they'll consider filing it. If your cooperation is good  
16 enough, then they may file it. Do you understand that?

17 A. I understand, Your Honor.

18 Q. Do you understand if they file it, the only person that  
19 can grant the motion is me, and the only person that will  
20 decide how much to depart, if at all, will be me again. Do  
21 you understand that?

22 A. Fully understand, Your Honor.

23 Q. Here your attorney can argue that I should depart further  
24 than what the government says. Do you understand that?

25 A. I understand, Your Honor.

1 Q. But, again, I will have the final decision on that.

2 A. I understand, Your Honor.

3 Q. No promises of any kind are being made to you. Do you  
4 understand that?

5 A. Yes, Your Honor.

6 Q. Are you in agreement with this?

7 A. Yes, Your Honor.

8 Q. Let's go on to subparagraph 13. There you're saying  
9 you're going to tell the Court what facts occurred and why  
10 you're guilty of the charges against you. Do you understand  
11 that?

12 A. Yes, Your Honor.

13 Q. Okay. Let's go on to subparagraph 14. That tells you,  
14 Mr. Gonzalez, what can happen if you disobey or go contrary to  
15 this plea agreement. Do you understand that?

16 A. Yes, Your Honor.

17 Q. In that case, the government can ask the Court to  
18 consider that you have breached the agreement and that you  
19 should lose the benefits of all the nonbinding recommendations  
20 and promises made by the government in this case and that you  
21 have no right to withdraw your guilty plea. Do you understand  
22 that?

23 A. Yes, Your Honor.

24 Q. Two, they could ask the Court to consider this agreement  
25 null and void, no good, throw it away. And then the

1 government can charge you and prosecute you for any and all  
2 crimes you may have committed. Do you understand that?

3 A. I know.

4 Q. Both are pretty bad. Do you understand that?

5 A. Yes, Your Honor.

6 Q. So do you understand the importance of following all of  
7 the conditions in this plea agreement?

8 A. I understand, Your Honor.

9 Q. And, again, you understand what can happen if you don't?

10 A. Yes, Your Honor.

11 Q. Mr. Gonzalez, are those the terms of your plea agreement  
12 with the government as you understand them?

13 A. Yes, Your Honor.

14 Q. Has anyone, including your own lawyer, any lawyer for the  
15 government, any government agent or anyone else made any other  
16 or different promise or assurance to you of any kind in an  
17 effort to induce or cause you to enter a plea of guilty in  
18 this case?

19 A. No, Your Honor.

20 Q. Does your willingness to plead guilty result from prior  
21 discussions between the government lawyer and you and your  
22 lawyer?

23 A. Could you repeat that again, Your Honor?

24 Q. Mr. Gonzalez, you have a plea agreement right here; is  
25 that correct?

1 A. Yes, Your Honor. Yes, Your Honor.

2 Q. You read it?

3 A. Yes, Your Honor.

4 Q. You agree with it?

5 A. Yes, Your Honor.

6 Q. You sign it?

7 A. Yes, Your Honor.

8 Q. Where did you get it from?

9 A. From my attorney, Your Honor.

10 Q. Did you talk to him about it?

11 A. Yes, Your Honor.

12 Q. Did the two of you come to an agreement on it?

13 A. Yes, Your Honor.

14 Q. Where did he get it from?

15 A. From the government, Your Honor.

16 Q. Did he talk to the government about it?

17 A. Yes, Your Honor.

18 Q. And as a result of all these discussions, is that why you  
19 decided to plead guilty?

20 A. Yes, Your Honor.

21 Q. Listen to my question again. Does your willingness to  
22 plead guilty result from prior discussions between the  
23 government lawyer and you and your lawyer?

24 A. Yes, Your Honor.

25 Q. Any questions about that?

1 A. No, Your Honor.

2 Q. Has anyone, including your own lawyer, any lawyer for the  
3 government, any government agent or anyone else attempted in  
4 any way to force you to plead guilty in this case?

5 A. No, Your Honor.

6 Q. Do you understand the -- strike that.

7 Do you understand that the offenses to which you're  
8 pleading guilty are felony offenses?

9 A. Yes, Your Honor.

10 Q. Do you further understand that if your guilty plea is  
11 accepted you will be adjudged guilty of those offenses?

12 A. Yes, Your Honor.

13 Q. Do you further understand that such adjudication may  
14 deprive you of valuable civil rights, such as the right to  
15 vote, the right to hold public office, the right to serve on a  
16 jury and the right to possess any kind of firearm?

17 A. Yes, Your Honor.

18 THE COURT: Mr. Nozick, are there any crime victims  
19 related to the crimes charged who are to be notified of their  
20 rights pursuant to the Justice for All Act of the year 2004 as  
21 codified in Title 18, United States Code, Section 3771?

22 MR. NOZICK: Yes, Your Honor, the act has been complied  
23 with. The next of kin has waived their right to be present  
24 today.

25 THE COURT: So the statute has been complied with?

1 MR. NOZICK: Yes, it has.

2 BY THE COURT:

3 Q. Mr. Gonzalez, do you recall earlier you and I talked  
4 about what would happen if you pled guilty to Counts One and  
5 Two of the third superseding indictment, and I told you what  
6 penalties you were facing? I told you what was the maximum,  
7 what was the minimum and that your sentence could be somewhere  
8 in between. Do you recall that?

9 A. Yes, Your Honor.

10 Q. Do you need me to repeat that?

11 A. No, Your Honor.

12 Q. Do you have any questions about it?

13 A. No, Your Honor.

14 THE COURT: Counsel, do either of you see any need for  
15 any repetition or further explanation of minimum or maximum  
16 penalties?

17 MR. NOZICK: No, Your Honor.

18 MR. PARENT: No, Judge.

19 BY THE COURT:

20 Q. Mr. Gonzalez, have you and your attorney talked about how  
21 the Sentencing Commission guidelines apply to your case?

22 A. Yes, Your Honor.

23 Q. Do you understand that the Court will not be able to  
24 determine a guideline sentence for your case until after the  
25 presentence report has been completed, and you and the

1 government have had an opportunity to challenge the facts  
2 reported by the probation officer?

3 A. Yes, Your Honor.

4 Q. Do you further understand that after it has been  
5 determined what guidelines apply to a case, the judge has the  
6 authority in some circumstances to impose a sentence that is  
7 more severe or less severe than the sentence called for by the  
8 guidelines?

9 A. Yes, Your Honor.

10 Q. Do you also understand that in this case under some  
11 circumstances the government may have a right to appeal any  
12 sentence that I may impose, but that you have, for all  
13 practical purposes, waived all of your rights to an appeal?

14 A. Yes, Your Honor.

15 Q. Do you further understand that if I accept your plea of  
16 guilty and your plea agreement and the sentence is more severe  
17 than you expected, you will still be bound by your plea and  
18 will have no right to withdraw it?

19 A. Yes, Your Honor.

20 Q. Do you further understand that if I accept your plea of  
21 guilty and your plea agreement but do not accept the  
22 sentencing recommendations in your plea agreement, you will  
23 still be bound by your plea and will have no right to withdraw  
24 it?

25 A. Yes, Your Honor.



1 Q. And finally, Mr. Gonzalez, do you understand that parole  
2 has been abolished and that if you are adjudged guilty and  
3 sentenced in accordance with your plea agreement, you will  
4 never, never, ever be released on parole. There is no more  
5 parole. Do you understand that?

6 A. Yes, Your Honor.

7 Q. Now, Mr. Gonzalez, do you understand those possible  
8 consequences of your plea?

9 A. Yes, Your Honor.

10 Q. Has anyone, including your own lawyer, any lawyer for the  
11 government, any government agent or anyone else made any  
12 prediction, prophecy or promise to you as to what your precise  
13 sentence will be?

14 A. No, Your Honor.

15 Q. Do you further understand that you have a right to plead  
16 not guilty to any offense charged against you and to persist  
17 in that plea?

18 A. Yes, Your Honor.

19 Q. Do you further understand that you would then have a  
20 right to a trial by jury, during which you would also have the  
21 right to the assistance of counsel for your defense, the right  
22 to present evidence at jury or bench trial, the right to see  
23 and hear all of the witnesses and cross-examine in your  
24 defense -- and have them cross-examine in your defense, the  
25 right to -- on your own part to decline to testify unless you

1 voluntarily elected to do so in your own defense and the right  
2 to the issuance of subpoenas or compulsory process to compel  
3 the attendance of witnesses to testify in your defense?

4 A. Yes, Your Honor.

5 Q. Do you further understand that by entering a plea of  
6 guilty, if that plea is accepted by the Court, there will be  
7 no trial, and you will have waived or given up your right to a  
8 trial, as well as those other rights associated with a trial  
9 as I have just described to you?

10 A. Yes, Your Honor.

11 Q. Do you further understand that if you plead guilty you  
12 will have to waive or give up your right not to incriminate  
13 yourself because I may ask you questions about what you did in  
14 order to satisfy myself that you are guilty as charged, and  
15 you will have to acknowledge your guilt?

16 A. Yes, Your Honor.

17 Q. Now, Mr. Gonzalez, I want to inform you of the charges to  
18 which you're entering a plea of guilty. Do you understand  
19 that Counts One and Two of the third superseding indictment  
20 charge you with the crimes of, for Count One, conspiracy to  
21 participate in racketeering activity and for Count Two,  
22 conspiracy to possess with the intent to distribute and  
23 distribute 5 kilograms or more of cocaine and 1,000 kilograms  
24 or more of marijuana?

25 A. Yes, Your Honor.

1 Q. Do you further understand that the essential elements of  
2 those offenses; in other words, what the government would have  
3 to prove at trial beyond a reasonable doubt are: For Count  
4 One, first, that you knowingly conspired to conduct and  
5 participate in the conduct of the affairs of the Almighty  
6 Latin King and Queen Nation, an enterprise, through a pattern  
7 of racketeering activity described in Count One; second, that  
8 the Almighty Latin King and Queen Nation was an enterprise;  
9 and, third, that the activities of the Almighty Latin King and  
10 Queen Nation would affect interstate commerce?

11 A. Yes, Your Honor.

12 Q. For Count Two, first, that the conspiracy as charged in  
13 Count Two existed; and, second, that you knowingly became a  
14 member of the conspiracy with an intention to further the  
15 conspiracy?

16 A. Yes, Your Honor.

17 Q. Now, Mr. Gonzalez, you understand the two charges to  
18 which you're pleading guilty?

19 A. Yes, Your Honor.

20 Q. Mr. Gonzalez, I want you to take a moment, get your  
21 thoughts together, and then I want you to tell me, in your own  
22 words, what happened and why are you guilty of these two  
23 charges.

24 (WHEREUPON, discussion was had off the record between  
25 counsel and defendant.)

1 THE DEFENDANT: I'm ready, Your Honor.

2 BY THE COURT:

3 Q. Go ahead.

4 A. I'm guilty because I -- I participated with -- in the  
5 Latin Kings organization in posting up and patrolling and  
6 doing other activities that -- that require you to be a  
7 soldier of the Latin Kings, and also participated in  
8 distributing cocaine and marijuana as part of being a member  
9 of the Latin Kings.

10 Q. Let's back up a little bit. You say you belong to the  
11 Latin King organization. Is that also known as the Almighty  
12 Latin King and Queen Nation?

13 A. Yes, Your Honor.

14 Q. Is that an organization that is situated in Indiana?

15 A. No, Your Honor. It's an organization that's situated in  
16 Chicago on 99th and Ewing.

17 Q. Well, do they have some members here in Indiana?

18 A. Yes, Your Honor.

19 Q. Do they have some members in all the other states of this  
20 country for the most part?

21 A. Yes, Your Honor.

22 Q. Okay. When did all of this occur? When did it start and  
23 when did it finish?

24 A. Hold on a second, Your Honor.

25 (WHEREUPON, discussion was had off the record between

1 counsel and defendant.)

2 THE DEFENDANT: Well, Your Honor, the indictment goes  
3 back to 1989.

4 BY THE COURT:

5 Q. You have to speak up.

6 A. Your Honor, the indictment goes back to 1989, but my  
7 involvement started in 2003 and ended in 2009.

8 Q. Started in 2003 for you and ended when?

9 A. In 2009.

10 Q. Okay. During that period of time, where did it occur?

11 A. In Indiana and Chicago, Your Honor.

12 Q. Okay. Besides Chicago, are you talking about Chicago,  
13 Illinois?

14 A. Chicago, Illinois, Your Honor.

15 Q. Where in Indiana?

16 A. Hammond, Indiana, Your Honor.

17 Q. Is that in the Northern District of Indiana?

18 A. Yes, Your Honor.

19 Q. During that period of time, were you a member of the  
20 Latin Kings?

21 A. Yes, Your Honor.

22 Q. And the Almighty Queen Nation?

23 A. Yes, Your Honor.

24 Q. Okay. What position did you have with them?

25 A. I was a street soldier, Your Honor.

1 Q. You were what?

2 A. A soldier, Your Honor.

3 Q. Soldier?

4 A. Yes, Your Honor.

5 Q. Okay. During that period of time, what activities did  
6 the Latin King -- I'm going to refer to them only as Latin  
7 Kings only. What activities did they do? What were they  
8 involved in?

9 MR. PARENT: Use your own words.

10 THE DEFENDANT: Anywhere from selling drugs to murder.

11 BY THE COURT:

12 Q. Okay. Okay. Let's stand up and let's back up a little  
13 bit. You say anywhere from selling drugs. What kind of  
14 drugs?

15 A. Marijuana, cocaine.

16 Q. Are those narcotic-controlled substances?

17 A. Yes, Your Honor.

18 Q. Okay. And you say and murder?

19 A. Yes.

20 Q. Murder of individuals?

21 A. Yes, Your Honor.

22 Q. Did they commit robberies?

23 A. Yes, Your Honor.

24 Q. Burglaries?

25 A. Yes, Your Honor.

1 Q. Anything else?

2 A. No, Your Honor.

3 Q. Okay. And what did you do as a soldier during that  
4 period of time?

5 A. I participated in posting up and patrolling the  
6 neighborhood that I was assigned to, Your Honor.

7 Q. You participated in the neighborhood?

8 A. I participated in patrolling the neighborhood that I  
9 belonged to from the Latin Kings.

10 Q. Okay. You say patrolling it. What do you mean by that?

11 A. Posting up, Your Honor. Posting up, Your Honor.

12 MR. PARENT: Explain to him what that means.

13 THE DEFENDANT: Being in the neighborhood and just --  
14 just patrolling it from other rival gangs, Your Honor.

15 BY THE COURT:

16 Q. Why did you do that?

17 A. It was part of being a Latin King, Your Honor.

18 Q. Why did the Latin Kings do it? Why did they want you  
19 there?

20 A. To defend it from other rival gang members and to  
21 distribute narcotics.

22 Q. And during that period of time, were the Latin Kings  
23 selling drugs?

24 A. Yes, Your Honor.

25 Q. And were they selling cocaine and marijuana?

1 A. Yes, Your Honor.

2 Q. Did you sell any of these drugs?

3 A. Yes, Your Honor.

4 Q. Which ones did you sell?

5 A. Marijuana, Your Honor.

6 Q. Okay. And the cocaine and the marijuana that they sold,  
7 how much did they sell during that period of time?

8 A. According to the indictment, they sold anywhere from  
9 5 kilos of cocaine to a thousand kilograms of marijuana.

10 Q. Okay. To the best of your knowledge and what you saw,  
11 did they sell at least that amount of cocaine and marijuana?

12 A. I believe so, Your Honor.

13 Q. Okay. They sold quite a bit?

14 A. Yes, Your Honor.

15 Q. And that was foreseeable?

16 A. Yes, Your Honor.

17 Q. Okay. Did you patrol your neighborhood, your section or  
18 your area, to try to make the Latin Kings successful in being  
19 able to sell these drugs?

20 A. Yes, Your Honor.

21 Q. Okay. And where was your section that you patrolled?

22 A. On 99th and Ewing -- 99th and Ewing, Chicago, Illinois,  
23 Your Honor.

24 Q. Anywhere else?

25 A. No, Your Honor.



1 Q. And where was it that you sold the marijuana?

2 A. In Indiana, Your Honor.

3 Q. Where in Indiana?

4 A. Hammond, Indiana.

5 Q. Okay. And did the Latin Kings do all of their activities  
6 both, among other places, in Chicago and in the Northern  
7 District of Indiana?

8 A. I believe so, Your Honor.

9 Q. Okay. Did you do all of this knowingly and voluntarily?

10 A. Yes, Your Honor.

11 Q. Anybody force you to do it?

12 A. No, Your Honor.

13 Q. And did you know that it was against the law to possess  
14 and sell these drugs?

15 A. Yes, Your Honor.

16 Q. And, yet, you assisted the Latin Kings in doing that?

17 A. Yes, Your Honor.

18 Q. Were you involved in any way with regards to any of the  
19 murders?

20 A. Yes, Your Honor.

21 Q. What did you do?

22 A. I participated in a murder, Your Honor.

23 Q. How did you do that?

24 A. By being present. By being present, Your Honor.

25 Q. Okay. Did you do the actual killing?

- 1 A. No, Your Honor.
- 2 Q. Okay. Did you drive somebody?
- 3 A. No, Your Honor.
- 4 Q. Were you with the people that were doing the killing?
- 5 A. Yes, Your Honor.
- 6 Q. And who was it that you were with?
- 7 A. Gabriel Jalomos.
- 8 Q. Okay. And who was it that was killed?
- 9 A. Jose Cortez.
- 10 Q. Anybody else that was there?
- 11 A. Yes, Your Honor. Emiliano Esparza was there. Sergio
- 12 Robles was involved. And Paulino Salazar was involved, also.
- 13 Q. And who did the killing?
- 14 A. Gabriel Jalomos.
- 15 Q. Were you there to help the individuals that were going to
- 16 do the killing?
- 17 A. Yes, Your Honor.
- 18 Q. Were you there to be able to assist the Latin Kings in
- 19 getting this person killed?
- 20 A. Yes, Your Honor.
- 21 Q. Was there anything else you did for the Latin Kings?
- 22 A. At that time, Your Honor?
- 23 Q. During that period of time.
- 24 A. I just assisted them in whatever I was asked to do.
- 25 Q. You assisted them by doing all the activities they wanted

1       you to do?

2       A.     Yes, Your Honor.

3       Q.     Anything else?

4       A.     No, Your Honor.

5       Q.     Did you assist them at all with any of the robberies or  
6       burglaries?

7       A.     No, Your Honor.

8       Q.     Did they also beat up people from time to time?

9       A.     Yes, Your Honor.

10      Q.     Did you assist them on that?

11      A.     Yes, Your Honor.

12      Q.     In Chicago and in Indiana-- in the Northern District of  
13      Indiana?

14      A.     Yes, Your Honor.

15      Q.     Anything else you want to add?

16      A.     No, Your Honor.

17             THE COURT:  Mr. Parent, anything else you want to add?

18             MR. PARENT:  Yes, Judge.  The only thing I also would  
19      ask my client, if I might, isn't it true that on this  
20      particular time when Jose Cortez was -- was shot and killed by  
21      Gabriel Jalomos, you were in possession of a 9 millimeter gun,  
22      correct?

23             THE DEFENDANT:  Yes.

24             MR. PARENT:  And though you didn't shoot Mr. Cortez,  
25      you did fire shots at that same incident, correct?

1 THE DEFENDANT: Yes.

2 THE COURT: And you had admitted to that in the plea  
3 agreement --

4 THE DEFENDANT: Yes.

5 THE COURT: -- that you had a firearm.

6 Thank you, Mr. Parent.

7 MR. PARENT: And I think that's all I had to add.

8 THE COURT: Mr. Gonzalez, I want you to take a look at  
9 Mr. Nozick because I'm going to ask Mr. Nozick what, in  
10 summary, are the facts that the government would be prepared  
11 to prove at trial as to each of the counts to which you're  
12 intending to plead guilty to. I want you to listen very  
13 carefully to what Mr. Nozick says because when he finishes,  
14 I'm going to ask you whether or not you agree with everything  
15 he says, and if you don't agree with everything, what it is  
16 you disagree with. Do you understand that?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: So listen very carefully.

19 Mr. Nozick, what, in summary, are the facts the  
20 government would be prepared to prove at trial as to the  
21 counts to -- as to each of the counts to which the defendant  
22 is intending to plead guilty? And I want you to take the  
23 counts separately; okay?

24 MR. NOZICK: Yes, Your Honor.

25 If the government proceeded to trial, we would prove

1 beyond a reasonable doubt as to Count One that the Latin  
2 Kings, including its associates, constituted an enterprise as  
3 defined in the statute 18 U.S.C. 1961(4), that is a group of  
4 individuals associated in fact. The Latin Kings constituted  
5 an ongoing organization whose members functioned as a  
6 continuing unit for the purpose of achieving the objectives of  
7 the enterprise, and the enterprise was engaged in and its  
8 activities affected interstate commerce.

9 During the course of the conspiracy, this defendant was a  
10 soldier in the 99th Street faction of the Latin Kings. That  
11 chapter is based in Chicago, Illinois. As a member of the  
12 99th Street Latin Kings, he regularly attended meetings. At  
13 these meetings, he and others would pay dues. The dues would  
14 go to, amongst other things, purchasing more narcotics and  
15 purchasing firearms in order to protect their drug trade. At  
16 these meetings, they would also regularly discuss gang  
17 business, including drug trafficking, murders and robberies.

18 As a member of the 99th Street Latin Kings, the defendant  
19 had to post up and patrol in his neighborhood. That means  
20 either he's armed or someone with him is armed and they patrol  
21 the neighborhood on the lookout for rival gang members and  
22 police. In doing so, he would be furthering the activities of  
23 the Latin Kings, particularly the drug trade of the Latin  
24 Kings, protecting their turf, if you will, against rival  
25 gangs.

1           In addition, on May 25, 2008, the defendant participated  
2           in the murder of Jose Cortez outside of a bar in East Chicago,  
3           Indiana. This defendant was driven by Emiliano Esparza, a  
4           defendant who pled guilty last week. Gabriel Jalomos, who  
5           previously pled guilty in this court, he was the shooter who  
6           killed the victim with an AK-47. This defendant, possessing a  
7           9 millimeter pistol, also fired shots. He was assisting  
8           Jalomos and others in this homicide. In the other car were  
9           codefendants Sergio Robles, also known as Checko, Paulino  
10          Salazar and others also contributed and assisted in the  
11          planning of this.

12          The drug trade, the beatings, the murders and the  
13          robberies occurred both in Chicago and in the Northern  
14          District of Indiana in Hammond, East Chicago and also in other  
15          towns.

16          As far as Count Two goes, that's the narcotics  
17          conspiracy. During the times the defendant -- strike that.

18          During the times charged in the indictment and while the  
19          defendant was a member, the Latin Kings were involved in the  
20          business of selling large amounts of cocaine, marijuana and  
21          other narcotics through *Pinkerton* liability. That is, this  
22          defendant is liable for the amounts reasonably foreseeable to  
23          him. The Latin Kings people that he was working with easily  
24          sold 150 kilos or more of cocaine and over a thousand kilos or  
25          more of marijuana. These drug sales occurred both in Chicago,

1 south suburbs, and the Northern District of Indiana, including  
2 Hammond and East Chicago. This defendant himself was involved  
3 in the sale of large amounts of marijuana.

4 That is all.

5 BY THE COURT:

6 Q. Mr. Gonzalez, did you listen and pay close attention to  
7 the government's summary of facts constituting the crimes  
8 charged for both Counts One and Two of the third superseding  
9 indictment?

10 A. Yes, Your Honor.

11 Q. Do you agree with the government's summary of facts  
12 constituting the crimes charged?

13 A. Yes, Your Honor.

14 Q. Any part of it you disagree with?

15 A. No, Your Honor.

16 Q. Do you agree that you attended meetings, paid dues and  
17 carried weapons on behalf of the Latin Kings?

18 A. Yes, Your Honor.

19 Q. Do you agree that you sold drugs on behalf of the Latin  
20 Kings?

21 A. Yes, Your Honor.

22 Q. And you already have indicated that you assisted in the  
23 murder of at least one individual?

24 A. Yes, Your Honor.

25 Q. Anything else you want to add?

1 A. No, Your Honor.

2 THE COURT: Counsel, are both of you satisfied that the  
3 defendant is making a knowing and voluntary plea supported by  
4 an independent basis in fact containing each of the essential  
5 elements of each of these two charges?

6 MR. NOZICK: Yes, Your Honor.

7 MR. PARENT: Yes, Judge.

8 THE COURT: Mr. Gonzalez, how do you now plead to the  
9 charge in Count One of the third superseding indictment,  
10 guilty or not guilty?

11 THE DEFENDANT: Guilty, Your Honor.

12 THE COURT: Mr. Gonzalez, how do you now plead to the  
13 charge in Count Two of the third superseding indictment,  
14 guilty or not guilty?

15 THE DEFENDANT: Guilty, Your Honor.

16 THE COURT: And, Mr. Gonzalez, are you also known by  
17 the name of Puppet?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: It is the finding of the Court in the case  
20 of the United States of America versus Oscar Gonzalez, also  
21 known as Puppet, that the defendant Oscar Gonzalez, also known  
22 as Puppet, is fully competent and capable of entering an  
23 informed plea and that his plea of guilty to the charges  
24 contained in Counts One and Two of the third superseding  
25 indictment is a knowing and voluntary plea supported by an



1 independent basis in fact containing each of the essential  
2 elements of the offenses. The plea is therefore accepted, and  
3 the defendant is now adjudged guilty of Counts One and Two of  
4 the third superseding indictment. I am deferring my decision  
5 on acceptance or rejection of your plea agreement until after  
6 I've had an opportunity for study of the presentence report.  
7 Do you understand?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Mr. Gonzalez, a written presentence report  
10 will be prepared by the probation office to assist me in  
11 sentencing. You will be required to give information for the  
12 report, and your lawyer may be present if you wish. I'll  
13 advise you at the sentencing hearing whether I accept or  
14 reject your plea agreement. You and your lawyer shall be  
15 afforded the opportunity to speak on your behalf at the  
16 sentencing hearing. The Court shall permit you and your  
17 lawyer to read the presentence report before the sentencing  
18 hearing and, in fact, a copy of that report will be given to  
19 you. Do you understand that?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: I therefore refer this defendant to the  
22 probation office for a presentence investigation and report  
23 pursuant to the Federal Rules of Criminal Procedure 32(c)(1).

24 Mr. Parent, right behind you there is a gentleman from  
25 the probation department. I would appreciate it if before you

1 leave the courthouse today you make arrangements with him to  
2 get him the information necessary for preparation of the  
3 presentence investigation report.

4 MR. PARENT: Yes, sir.

5 THE COURT: And, Mr. Parent and Mr. Nozick, I am also  
6 issuing an order regarding presentence procedures. I expect  
7 both of you to read that order and comply with it. I expect  
8 both of you on a timely basis to provide information to the  
9 probation department so that a presentence investigation and  
10 report may be prepared, and also on a timely basis and in  
11 writing, advise the probation department if you have any  
12 objections to the presentence investigation report so that if  
13 there are any objections, appropriate procedures may be taken.  
14 Do each of you understand?

15 MR. NOZICK: I understand.

16 MR. PARENT: Yes, Judge.

17 THE COURT: And, Counsel, do you understand that  
18 failure to abide by that may result either in the waiver of an  
19 issue and/or sanctions?

20 MR. PARENT: Yes. I'm not going to cross you, Judge.

21 MR. NOZICK: I understand.

22 THE COURT: Disposition date for sentencing is set for  
23 January 30th of the year 2013 at 2:00 in the afternoon, with  
24 the understanding that the sentencing date may be continued in  
25 the event the cooperation is not complete.

1 Mr. Parent, is that time and date convenient for you?

2 MR. PARENT: If I may, strangely I know that I'm going  
3 on vacation in January of 2013 right at the end of the month.  
4 If I may have just a moment. I want to make sure that's not a  
5 Martin Luther King weekend. It appears the 30th is a  
6 Wednesday. We're good, Judge.

7 THE COURT: Mr. Nozick?

8 MR. NOZICK: That's fine, Your Honor.

9 THE COURT: Mr. Gonzalez, you understand you must be in  
10 this courtroom, unless otherwise ordered by the Court, at 2:00  
11 in the afternoon on the 30th day of January of the year 2013.  
12 Because you're in custody at this time, the marshal service  
13 will see to it that you are brought here at that time. Do you  
14 understand that?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Mr. Gonzalez, I am deferring my decision on  
17 acceptance or rejection of your plea agreement until the time  
18 set for sentencing and after opportunity for study of the  
19 presentence report. If the terms of your plea agreement are  
20 then accepted, I will so advise you. If the terms of your  
21 plea agreement are rejected, I will also advise you and then  
22 afford you an opportunity to withdraw your plea of guilty,  
23 reinstate your plea of not guilty and proceed to trial. Do  
24 you understand that?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: Mr. Gonzalez, I've asked you a lot of  
2 questions this afternoon. Do you have any questions about  
3 anything I've asked you?

4 THE DEFENDANT: No, Your Honor.

5 THE COURT: Any questions about your case?

6 THE DEFENDANT: No, Your Honor.

7 THE COURT: Counsel, is there anything further that  
8 needs to be done on this case at this time?

9 MR. PARENT: No.

10 THE COURT: Marshals are ordered to take custody of the  
11 defendant pending sentencing.

12 MR. NOZICK: Thank you, Judge.

13 MR. PARENT: Thank you, Judge.

14 (End of requested transcript.)

15 CERTIFICATE OF REPORTER

16 I, Kelly M. Fitzgerald, a Registered Merit Reporter and  
17 Certified Realtime Reporter, certify that the foregoing is a  
18 true, complete, and accurate transcript of the proceedings  
19 ordered to be transcribed in the above-entitled case before  
the Honorable Rudy Lozano, in Hammond, Indiana, on June 26,  
2012.

20 s/Kelly M. Fitzgerald

June 27, 2013

21 Kelly M. Fitzgerald, Official Reporter

22 Date  
23  
24  
25

<b>\$</b>	<b>26th</b> <sup>[1]</sup> - 3:8 <b>27</b> <sup>[1]</sup> - 60:20 <b>2:00</b> <sup>[2]</sup> - 58:23, 59:10 <b>2:10-CR-109</b> <sup>[2]</sup> - 1:5, 2:18 <b>2A1.1(a)</b> <sup>[1]</sup> - 26:19 <b>2D1.1(b)(1)</b> <sup>[1]</sup> - 25:23 <b>2D1.1(c)</b> <sup>[1]</sup> - 25:1 <b>2D1.1(d)(1)</b> <sup>[1]</sup> - 26:18 <b>2E1.1</b> <sup>[2]</sup> - 25:23, 26:18	48:22, 53:10, 53:12, 53:18	3:3 <b>advisory</b> <sup>[1]</sup> - 19:18 <b>affairs</b> <sup>[1]</sup> - 43:5 <b>affect</b> <sup>[1]</sup> - 43:10 <b>affected</b> <sup>[1]</sup> - 53:8 <b>afford</b> <sup>[1]</sup> - 59:22 <b>afforded</b> <sup>[1]</sup> - 57:15 <b>afternoon</b> <sup>[3]</sup> - 58:23, 59:11, 60:2 <b>agent</b> <sup>[3]</sup> - 36:15, 38:3, 41:11 <b>agree</b> <sup>[17]</sup> - 23:11, 24:7, 25:17, 25:24, 26:10, 31:11, 31:12, 32:6, 32:10, 37:4, 52:14, 52:15, 55:11, 55:16, 55:19 <b>agreeing</b> <sup>[3]</sup> - 25:1, 25:22, 26:6 <b>agreement</b> <sup>[43]</sup> - 3:3, 3:5, 3:12, 3:22, 4:6, 4:14, 4:24, 10:13, 11:7, 11:10, 11:13, 12:3, 14:25, 15:17, 16:10, 18:9, 18:17, 23:4, 23:14, 24:23, 27:1, 29:10, 30:19, 33:8, 33:18, 35:6, 35:15, 35:18, 35:24, 36:7, 36:11, 36:24, 37:12, 40:16, 40:21, 40:22, 41:3, 52:3, 57:5, 57:14, 59:17, 59:19, 59:21 <b>agreements</b> <sup>[1]</sup> - 17:17 <b>ahead</b> <sup>[2]</sup> - 8:21, 44:3 <b>aided</b> <sup>[1]</sup> - 1:21 <b>AK-47</b> <sup>[1]</sup> - 54:6 <b>alcoholic</b> <sup>[1]</sup> - 9:25 <b>allow</b> <sup>[2]</sup> - 18:9, 20:2 <b>allowed</b> <sup>[1]</sup> - 23:3 <b>Almighty</b> <sup>[5]</sup> - 43:5, 43:8, 43:9, 44:11, 45:22 <b>AMERICA</b> <sup>[1]</sup> - 1:4 <b>America</b> <sup>[3]</sup> - 2:17, 12:24, 56:20 <b>amnesia</b> <sup>[1]</sup> - 31:25 <b>amount</b> <sup>[6]</sup> - 16:25, 25:3, 25:5, 25:8, 25:14, 48:11 <b>amounts</b> <sup>[3]</sup> - 54:20, 54:22, 55:3 <b>amplifying</b> <sup>[3]</sup> - 6:17, 6:19, 6:20 <b>answer</b> <sup>[5]</sup> - 6:1, 7:6, 29:1, 30:14, 33:3 <b>answers</b> <sup>[1]</sup> - 7:7	<b>appeal</b> <sup>[6]</sup> - 27:7, 28:3, 28:12, 28:19, 40:11, 40:13 <b>appeals</b> <sup>[1]</sup> - 27:6 <b>applicable</b> <sup>[1]</sup> - 23:18 <b>apply</b> <sup>[4]</sup> - 19:8, 19:17, 39:21, 40:5 <b>applying</b> <sup>[1]</sup> - 19:8 <b>appreciate</b> <sup>[1]</sup> - 57:25 <b>appropriate</b> <sup>[1]</sup> - 58:13 <b>approve</b> <sup>[6]</sup> - 11:9, 12:2, 16:9, 29:9, 30:18, 33:7 <b>approving</b> <sup>[4]</sup> - 3:21, 4:5, 4:14, 4:23 <b>area</b> <sup>[1]</sup> - 48:18 <b>argue</b> <sup>[2]</sup> - 24:10, 34:23 <b>armed</b> <sup>[2]</sup> - 53:20 <b>arrangements</b> <sup>[1]</sup> - 58:1 <b>assessment</b> <sup>[9]</sup> - 12:20, 12:23, 13:4, 15:8, 15:12, 16:19, 17:2, 27:16, 27:21 <b>assigned</b> <sup>[1]</sup> - 47:6 <b>assist</b> <sup>[5]</sup> - 9:12, 50:18, 51:5, 51:10, 57:10 <b>assistance</b> <sup>[1]</sup> - 41:21 <b>Assistant</b> <sup>[3]</sup> - 2:20, 4:10, 4:17 <b>assisted</b> <sup>[5]</sup> - 49:16, 50:24, 50:25, 54:10, 55:22 <b>assisting</b> <sup>[4]</sup> - 31:2, 31:4, 54:7 <b>associated</b> <sup>[2]</sup> - 42:8, 53:4 <b>associates</b> <sup>[1]</sup> - 53:2 <b>assume</b> <sup>[1]</sup> - 4:11 <b>assurance</b> <sup>[1]</sup> - 36:16 <b>attempted</b> <sup>[1]</sup> - 38:3 <b>attempting</b> <sup>[2]</sup> - 22:5, 22:22 <b>attendance</b> <sup>[1]</sup> - 42:3 <b>attended</b> <sup>[2]</sup> - 53:12, 55:16 <b>attention</b> <sup>[1]</sup> - 55:6 <b>attorney</b> <sup>[27]</sup> - 2:19, 3:25, 4:18, 6:7, 6:11, 6:18, 7:25, 9:11, 9:12, 10:6, 10:10, 10:20, 11:3, 18:5, 19:21, 20:3, 21:24, 23:7,
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